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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,736	03/14/2001	Takayoshi Kurita	1503.65307	5363

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EXAMINER

KLIMACH, PAULA W

ART UNIT	PAPER NUMBER
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2135

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/809,736	Applicant(s) KURITA, TAKAYOSHI	
	Examiner Paula W. Klimach	Art Unit 2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/16/05 has been entered.

Response to Arguments

Applicant's arguments filed 09/16/05 have been fully considered but they are not persuasive because of following reasons.

Applicant argued that Kimlinger et al does not teach determining whether the accessing application programs are authorized to access a smart card, i.e to access an entire smart card rather than respective files. This is not found persuasive. Kimlinger addresses access management as disclose in column 8 lines 41-54, the access management includes the access to the smart card (Fig. 5C). However, the claim 1 does not recite, "to access an entire smart card rather than respective files." The claim limitation recites "an exclusion control unit allowing an application exclusive access to a smart card." The definitions of exclusive is excluding or having the power to exclude to single individual or group. Therefore the exclusion control unit allowing an application exclusive access to a smart card is a control unit that is used to limit control of a single individual or group of applications.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., exclusion control unit exerting an exclusive control over plural application programs respectfully issuing access requests for making access to a smart card) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, the examiner asserts that Kimlinger and Comerford do teach or suggest the subject matter broadly recited in independent Claims 1, 9-13. Dependent Claims 2-8 are also rejected at least by virtue of their dependency on independent claims and by other reason set forth in this office action. Accordingly, rejections for claims 1-13 are respectfully maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 3-6, and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimlinger et al (6,360,952 B1) in view of Comerford et al (5,109,413).

In reference to claims 1, 9-13, Kimlinger discloses an access management system managing access to smart card a plurality applications (column 3 lines 37-38). The system responds to a request to access the smart card from an application (Fig. 4 A-I).

However Kimlinger does not disclose the exclusive access of the smart card and allowing access when the smart card when the application has already been authenticated.

Comerford discloses a system wherein the rights to execute software are conditional. On of the conditions to access software is the number of times of execution (column4 lines 21-26). By making a condition of execution of the software, the number of times that the software, when the number of times for execution of the software is only 1 then there is exclusive access to the token and disk (smart card), since the counter would go to zero (column 19 lines 5-22). This would be exclusive access of the smart card because after the application has executed no other application will be allowed access since the counter would be zero, and therefore the conditions for execution, would not allow the application to execute.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include the conditions for execution as in Comerford in the system of Kimlinger. One of ordinary skill in the art would have been motivated to do this because it would provide the software vendor flexibility and therefore a return policy by being able to control the conditions of executing the software.

In reference to claim 3, wherein the access control unit rejects the access request from the application allowed the exclusive access if the application has not been authenticated for the smart card. The system disclosed by Comerford authenticates the token and therefore would not allow access if the token was not authentic.

Kimlinger does not disclose authentication of the token before the application executes.

The access control unit disclosed by Comerford suggests rejecting the access request from the application allowed the exclusive access if the application has not been authenticated

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for the smart card (column 18 lines 9-25). The system disclosed by Comerford authenticates the token and therefore would not allow access if the token was not authentic

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include the authentication of Comerford in the system of Kimlinger. One of ordinary skill in the art would have been motivated to do this because it would provide the software vendor flexibility and therefore a return policy by being able to control the conditions of executing the software.

In reference to claim 4, wherein said access control unit manages authentication between an application and smart card using a process ID of the application.

Kimlinger does not disclose the use of the process ID of the application to authenticate the application.

Comerford suggest the use of the process ID of the application to manage the authentication between the application and the token (smart card) before execution. This is performed the application looking for the execution criterion and would therefore need the process ID to identify the application (column 19 lines 4-12).

In reference to claim 5, wherein said access control unit changes an application authenticated for a smart card into non-authenticated application when the smart card is extracted from a smart card reader (Fig. 4 C). Kimlinger discloses checking if there is a smart card in the reader before turning the smart card on, therefore suggesting that the smart card becomes non-authentic when it is extracted.

In reference to claim 6, wherein when said application accesses the smart card plural times, said application issues the exclusive access request to said exclusion control unit each

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time the access is started, and issues an exclusive access cancellation notification to said exclusion control unit each time the access terminates (column 9 lines 26-32).

Claim 2, 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimlinger and Comerford as applied to claim 1 above, and further in view of Silberschatz.

In reference to claims 2 and 7, wherein the exclusion control unit queues an application that issues an exclusive access request in response an exclusive access request for the smart card from the application when the smart card has no logical channel exclusively accessed by another application.

Kimlinger and Comerford do not disclose the control unit queues an application that issues an access request.

Silberschatz discloses a monitor that uses a First Come First Serve Queue (FCFS) to control the access of one resource (pages 187-188).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use a queue to control the access of resources as disclosed by Silberschatz in the system of Kimlinger. One of ordinary skill in the art would have been motivated to do this because it would ensure that the process that waits the longest for the resource will be able to use it first.

In reference to claim 8, wherein the access control unit request a smart card to cancel authentication an application, in response to a smart card authentication cancellation notification from when the application authenticated for the smart card smart authentication application, last application

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Kimlinger and Comerford do not disclose the access control unit request a smart card to cancel authentication an application, in response to a smart card authentication cancellation notification from when the application authenticated for the smart card smart authentication application, last application

Silberschatz discloses the release of a resource when the queue is ended and therefore the cancellation of the authentication application when the application is the last application (page 187).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use a queue to control the access of resources as disclosed by Silberschatz in the system of Kimlinger. One of ordinary skill in the art would have been motivated to do this because it would ensure that the process that waits the longest for the resource will be able to use it first.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula W. Klimach whose telephone number is (571) 272-3854. The examiner can normally be reached on Mon to Thr 9:30 a.m to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PWK

Monday, December 12, 2005

A handwritten signature in black ink, appearing to be "SPE AUG 135".

SPE AUG 135